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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT APPLICATION

Appellant Perdon et al.

Attorney Docket No. 109.635.144  
SEDN/PRED144

Serial No.: 09/928,493

Group Art Unit: 2157

Filed: August 13, 2001

Examiner: Sall, El Hadji Malick

Confirmation #: 7921

For: PREDICTING THE ACTIVITIES OF AN INDIVIDUAL OR GROUP USING  
MINIMAL INFORMATION

MAIL STOP APPEAL BRIEF-  
PATENTS

Commissioner for Patents  
P.O. Box 1450  
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REPLY BRIEF

Appellants submit this Reply Brief to the Board of Patent Appeals and  
Interferences in response to the Examiner's Answer dated March 23, 2007 in the  
Appeal of the above-identified application.

The Commissioner is authorized to charge any fees due, including  
extension of time an excess claim fees, to Deposit Account No.  
20-0782/SEDN/PRED144.

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### REMARKS

In Section 10 (Response to Argument) of the Examiner's Answer (hereinafter, "Answer"), Examiner attempts to provide additional reasoning to support his decision of obviousness with respect to the claims on appeal. However, Appellants still uphold that the rejection of claims 1-12, 14-33, 35-44 and 46-57 as being unpatentable under 35 U.S.C. §103 are improper.

Appellants respectfully re-iterate the following distinctions between Appellants' invention and the teaching of Herz.

Herz's col. 90, lines 10-22, has been cited as disclosing the various features of Appellants' claim 1. The cited section in Herz is reproduced below:

"Specifically users should first be matched according to their common interest in a type of application which can be jointly interacted with or jointly viewed passively (via PC or TV). Then, secondly, users within such a common interest group may be further subdivided into sub-communities according to more specific common interests which they share (such as sub-communities) of real time correspondents simultaneously watching a popular program on television or according to content profile of the real time dialogues which the users are engaged in e.g., as they jointly navigate the World Wide Web, view a video program or television debate or engage in a video game."

It is clear that Herz only teaches that users are to be matched according to their common interest in activities that they can jointly interact with or jointly view passively, and that users in a common interest group may further be divided into sub-communities according to more specific common interests that they share.

Appellants respectfully submit that there is nothing in the cited section above regarding any of the specific features in Applicants' claim 1, such as:

- 1) accessing data that reflects the cumulative activities in which other users

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have participated, conditions surrounding these other users' cumulative activities, and the patterns of behavior exhibited by these other users through participation in such cumulative activities,

2) comparing current user's identified activities and surrounding conditions with other users' cumulative activities and surrounding conditions to identify the similarities, and

3) attributing to the current user a pattern of future behavior based on such similarities and on the other users' patterns of behavior.

Specifically, Appellants' cumulative activities and conditions surrounding these other users' cumulative activities are different from Herz's joint activities that users participate in based on common interests. Thus, the claimed invention collects data on patterns of behavior of users in their respective cumulative activities, not joint activities as taught in Herz.

Examiner further cited Herz's col. 3, line 39; col. 6, lines 16-28; and col. 48, lines 49-64 as teaching Appellants' claimed invention. Appellants respectfully disagree.

Specifically, the cited sections in Herz generally disclose certain retrieval of information from article collections, in which a user chooses one or more article collections based on short summaries of these collections (e.g., col. 3, lines 44-45), and a method for matching users and target objects by "using and updating profile information that describes both the users' interests and the target objects' characteristics" (col. 6, lines 20-22). Herz is further cited for disclosing a "pre-fetching" method, in which users are clustered according to the similarity of their user profiles, and access pattern statistics from each user is generalized to similar users (col. 48, lines 49-55).

However, Appellants submit that Herz still does not teach the claimed invention, because in Herz, the user profile corresponds to a user's attributes, e.g., age/zip code, etc. (col. 4, lines 54-55).

Such user profile, upon which Herz's users are grouped and compared, is

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different from the data that is pertinent to Appellants' invention - which are activities identified for the current user and surrounding conditions, the cumulative activities and surrounding conditions of other users, or patterns of behaviors of users (see Claim 1).

Thus, Herz's teaching of pre-fetching of data based on statistics from a cluster of users is simply not the same as Appellants' invention, which predicts a user's pattern of future behavior based on similarities between the current user's identified activities and surrounding conditions and other users' cumulative activities and surrounding conditions.

Appellants further disagree with Examiner's view that Herz's teaching of automatically updating a user's target profile interest summary on a continuing basis to reflect the user's changing interests as equivalent to Appellants' claimed feature of "comparing activities and conditions between the current user and other users to attribute future behavior to the current user" (Examiner's Answer, p.28, 6th line from bottom). Appellants further disagree with Examiner's view that the "search profiles in users' search profile sets" is the same as "the other users' cumulative activities and surrounding conditions" (Examiner's Answer, p.29, 5th line from bottom).

Specifically, as taught by Herz, the target profile interest summary is a summary of digital profiles of target objects that a user likes and/or dislikes (col. 4, lines 56-58), and the search profile is "a collection of attributes, such that a user like target objects whose profiles are similar to the collection of attributes" (col. 4, lines 58-61). That is, the search profile is a collection of attributes based upon which, a user's likes/dislikes of target objects may be assessed.

Appellants submit that such attributes, or search profile of the user's likes/dislikes are simply not the same as Appellants' claimed features of "other users' cumulative activities and surrounding conditions", as Examiner has asserted.

Furthermore, Herz's search profile set for a user is based on target profiles of objects that the particular user likes/dislikes, but not based on or derived from

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other users' likes, dislikes, or cumulative activities and surrounding conditions.

Thus, Appellants submit that the alleged analogies between Herz's target profile/search profile and Appellants' claimed features are flawed. As such, the method taught by Herz is different from Appellants' claimed invention because the profiles being compared in Herz in order to predict a user's behavior (e.g., likes/dislikes for target objects) are simply different from those taught by Appellants - e.g., by comparing the identified activities and surrounding conditions for the current user with cumulative activities and surrounding conditions of other users.

Since Herz only teaches comparing target profiles against the search profiles, but not comparing activities and conditions between the current user and other users to attribute future behavior to the current user, Herz does not teach or suggest "comparing, by a set top box, (i) the current user's identified activities and surrounding conditions and (ii) the other users' cumulative activities and surrounding conditions, to identify similarities therebetween", as recited in Appellants' claim 1.

Since Herz fails to teach or suggest all the elements of claim 1 and Rooney fails to teach or suggest those missing elements, the combination also fails to disclose all the elements of claim 1.

Independent claims 17, 22, 35 and 46 also recite features similar to those discussed above for claim 1.

As such, Appellants maintain that independent claims 1, 17, 22, 35 and 46, and dependent claims 2-12, 14-16, 18-21, 23-33, 36-44 and 47-57 are patentable under 35 U.S.C. §103.

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### CONCLUSION

Appellants respectfully request that the Board reverse the rejections and pass the claims to allowance.

Respectfully submitted,

6-18-07

  
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